

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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In the Matter of)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

)
 Establishing Rules and Policies for the Use of)
 Spectrum for Mobile Satellite Services in the)
 Upper and Lower L-band)

IB Docket No. 96-132

**Reply of Mobile Satellite Ventures Subsidiary LLC to
 Petition for Clarification of Inmarsat Ventures plc**

Mobile Satellite Ventures Subsidiary LLC ("MSV") hereby responds to the Petition for Clarification of Inmarsat Ventures plc ("Inmarsat") regarding the Commission's decision in the above-referenced proceeding. *Report and Order*, FCC 02-24 (February 7, 2002).¹ MSV disagrees with Inmarsat's conclusion that the *Report and Order* should have no impact on either the North American L-band coordination or Inmarsat's right to access the United States market. The Commission's determination that the U.S.-licensed L-band Mobile Satellite Service ("MSS") system should be limited to no more than 20 MHz of coordinated spectrum must be applied fairly to all MSS systems that seek to access the United States market.

¹ Inmarsat filed its petition in advance of the Federal Register publication of the decision. MSV reserves its right to file its own petition for reconsideration or other appropriate pleading within 30 days of the Federal Register release of the order. 47 C.F.R. §§ 1.429(d); 1.4(b)(1). In addition to the concerns raised herein, that MSV will be disadvantaged if its competitors have greater access to L-band spectrum, MSV is also concerned that the *Report and Order* treats the MSV license as still being held by its predecessor, Motient, and characterizes the assignment of the license as a merger with the Canadian MSS system licensee. *Report and Order*, para. 19. In fact, the assignment occurred in November 2001 and was not a merger of the U.S. and Canadian systems, but rather established a joint venture in which TMI took a minority interest in the U.S. licensee while retaining control of the Canadian-licensed system. Of particular relevance to this proceeding, the coordination of the Canadian MSS system continues to be the legal responsibility of the Canadian administration.

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The *Report and Order* put MSV's first-generation MSS system on parity with those of the other, foreign space station licensees in the upper and lower L-band, by giving MSV permanent authority to operate in both bands. At the same time, however, the Commission decided that, unlike the foreign space station licensees, MSV would no longer be permitted to coordinate for as much of its licensed spectrum as possible; instead of MSV being permitted to coordinate for all 28 MHz of the upper L-band spectrum, it is now permitted to coordinate for a total of no more than 20 MHz of approximately 56 MHz that has been potentially available to it in the upper and lower parts of the band. *Report and Order*, paras. 1, 19.

In response to the *Report and Order*, Inmarsat seeks clarification that the decision will not "bias or prejudice the outcome" of the international frequency coordination process or preclude the Commission's grant of applications to access the Inmarsat space stations. Inmarsat Petition, p. 2. According to Inmarsat, any other interpretation would be inconsistent with the Commission's prior decisions to permit the use of foreign-licensed L-band space stations to provide United States service.

MSV strongly disagrees with Inmarsat's interpretation of the *Report and Order*. As an initial matter, the international frequency coordination process has already been impacted by the *Report and Order*, inasmuch as at least one entity, MSV, for the first time is limited in the amount of spectrum that it is permitted to coordinate. Even if MSV can demonstrate that it needs more than 20 MHz and even if the foreign-licensed space station operators are unable to demonstrate a superior need, MSV is limited to no more than 20 MHz. Moreover, the purpose of this limitation is to permit the Commission to consider licensing additional space stations, a goal that will be defeated if the other foreign-licensed satellites have unlimited access to any spectrum not used by MSV.

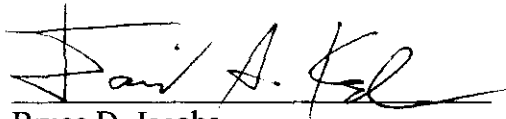
In addition, MSV's ability to compete with foreign-licensed space station operators will be adversely impacted if the foreign-licensed space stations are permitted to access more spectrum than MSV can access.² The only way to keep the playing field level is to impose the same spectrum access limitations on foreign-licensed space stations as the Commission imposes on those it licenses. If the Commission's spectrum management policy is to limit L-band space station licensees to no more than 20 MHz of coordinated spectrum, the same policy must be applied to all operators in the United States, regardless of whether their space stations are licensed by the Commission or by a foreign administration.³ The new 20-MHz limit is also similar to a technical restriction, such as 2 degree spacing. Commission policy requires foreign-licensed systems to comply with any technical requirements that are imposed on Commission-licensed systems. *Id.* at ¶ 156.

² Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States, *Report and Order*, 12 FCC Rcd 24094 (1997).


³ *Id.* at ¶ 173 ("In general, we will require non-U.S. satellite operators to comply with all Commission rules applicable to U.S. satellite operators. To do otherwise would place U.S. and foreign operators on an uneven competitive footing when providing identical satellite services in the United States and would defeat our public policy objectives in adopting these service rules in the first place. . . We find that this overall approach does not violate U.S. national treatment obligations because we will be treating foreign service suppliers identically to U.S. service suppliers with respect to their provision of service within the United States.").

Respectfully submitted,

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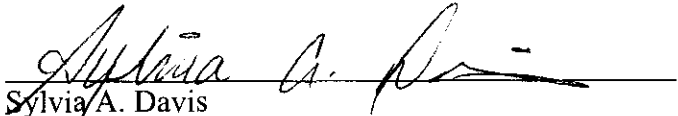
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